

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

TONY DUPREE,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 03-138 JJF
	:	
FLOYD MEGEE & SONS, DOUG ROSE,	:	
JOHN FERRIS, BENNY WHITBANKS,	:	
and MEGEE MOTORS CHRYSLER	:	
PLYMOUTH DODGE TRUCK JEEP	:	
DEALERSHIP, all assets, all	:	
possessions, all affiliates,	:	
all connected sister or	:	
parent companies,	:	
	:	
Defendants.	:	

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Tony Du Pree, Jr., Milton, Delaware.  
Pro Se Plaintiff.

Sheldon N. Sandler, Esquire and Adria B. Martinelli, Esquire of  
YOUNG, CONAWAY, STARGATT & TAYLOR, Wilmington, Delaware.  
Attorneys for Defendants Floyd A. McGee Motor Co., Inc., John  
Ferris, and Doug Rhodes.  
Of Counsel: Joseph M. English, Esquire of FISHER & PHILLIPS, LLP,  
Atlanta, Georgia.  
Attorney for Defendants John Ferris and Doug Rhodes.

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**MEMORANDUM OPINION**

March 31, 2004

Wilmington, Delaware

**Farnan, District Judge.**

Presently before the Court is the Motion To Dismiss filed by Floyd A. MeGee Motor Co., Inc. ("MeGee Motor").<sup>1</sup> (D.I. 11.) For the reasons discussed, the Court will grant in part the Motion.

**BACKGROUND**

By its Motion to Dismiss, Megee Motor contends that Plaintiff's Complaint was not filed within ninety days of receipt of his notice of right to sue from the Equal Employment Opportunity Commission (the "EEOC"), and therefore, should be dismissed pursuant to 42 U.S.C. § 2000e-5(f)(1). MeGee Motor also moves to dismiss Plaintiff's Complaint against the individually named defendants because it contends that Title VII claims may not be brought against individual defendants.

**I. Plaintiff's Claims Against MeGee Motor**

In its reply brief, MeGee Motor concedes, in light of newly reviewed evidence, that Plaintiff filed his Complaint within ninety days of receipt of his notice of right to sue from the EEOC. Therefore, Megee Motor withdraws the portion of its Motion to Dismiss the Complaint with respect to the claims against itself. (D.I. 20 at 1.) Accordingly, the Court will deny as withdrawn the portion of the Motion to Dismiss regarding the claims against MeGee Motor.

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<sup>1</sup> In the Complaint, MeGee Motor is improperly identified as MeGee Motors Chrysler Plymouth Dodge Truck Jeep Dealership.

## **II. Plaintiff's Claims Against The Individual Defendants**

MeGee Motor also moves for dismissal of the Complaint against Defendants Floyd A. McGee and sons, Doug Rhodes,<sup>2</sup> John Ferris, and Benny Whitbanks on the grounds that individuals cannot be sued under Title VII. The Third Circuit in Dici v. Commonwealth of Pennsylvania, 91 F.3d 542, 552 (3d Cir. 1996) (citing Sheridan v. E.I. DuPont de Nemours, 74 F.3d 1439 (3d Cir. 1996)), held that no Title VII cause of action may be maintained against individuals. Accordingly, the Court will grant McGee Motor's Motion to Dismiss Plaintiff's Complaint against the individually named Defendants.<sup>3</sup>

### **CONCLUSION**

For the reasons discussed, the Court will grant in part the Motion To Dismiss filed by McGee Motor. (D.I. 11.) An appropriate Order will be entered.

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<sup>2</sup> Doug Rhodes is improperly identified in the Complaint as Doug Rose.

<sup>3</sup> It is unclear from the Complaint whether Plaintiff is suing Floyd A. McGee and his sons as individual defendants. However, to the extent Plaintiff is suing them as individuals, the Court will grant the Motion to Dismiss.

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DEALERSHIP, all assets, all	:	
possessions, all affiliates,	:	
all connected sister or	:	
parent companies,	:	
	:	
Defendants.	:	

**O R D E R**

At Wilmington, this 31st day of March, 2004, for the reasons discussed in the Memorandum Opinion issued this date;

IT IS HEREBY ORDERED that:

- 1) The Motion To Dismiss filed by Floyd A. MeGee Motor Co., Inc. ("MeGee Motor") (D.I. 11) with respect to:
  - a) The claims against MeGee Motor, is **DENIED** as withdrawn;
  - b) The claims against the individual Defendants Floyd A. Megee and sons, Doug Rhodes, John Ferris, and Benny Whitbanks, is **GRANTED**.
- 2) Defendants John Ferris's And Doug Rhodes's Motion To

Dismiss (D.I. 25) is **DENIED** as moot.

JOSEPH J. FARNAN, JR.  
UNITED STATES DISTRICT JUDGE